

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

April 5, 2006

In the Matter of
Tennessee Gas Pipeline

Docket No. 2006-032
File No. 305-738
Tewksbury

RECOMMENDED FINAL DECISION

A Request for Reconsideration in the form of a letter dated February 23, 2006 from Professor Thomas E. Phalen Jr., on behalf of a group of citizens was received in this office on February 28, 2006. The request concerns a permit allowing the installation of a high pressure gas pipeline through wetlands resource areas. The request was treated as a Notice of Claim for an adjudicatory hearing and was assigned the above referenced docket number.

On April 5, 2006 this office received a letter from Donald P. Healey, Esq. formally withdrawing the Request for Reconsideration dated February 23, 2006, as "this matter is currently under judicial review and the parties are awaiting word from the court as to its decision."¹ The letter also requests the return of the Request and all materials filed with it, and reserves the right to resubmit materials after the court renders its decision.

Because the Request was filed with this office as a Claim for an adjudicatory hearing, the materials submitted with the Claim comprise the record for this matter, and cannot be simply

¹ The letter references a judicial action: Bruce Whinery v. Massachusetts Department of Environmental Protection et al., C.A. No. MICV2005-01401-L.

For special accommodations for this event, contact Deneen M. Simpson at this address or call (617) 556-1003.
This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD Service - 1-800-298-2207.

returned. See M.G.L. c.30A, §11, 310 CMR 1.03(8). The record is however, subject to public review and copies may be obtained upon request pursuant to the Public Records Act, M.G.L.c.4, §7, c.66, §10. The petitioning group's right to file any future Claim for administrative review will be determined when such a Claim is made with this agency. I recommend that petitioners' request to withdraw their Claim for an adjudicatory appeal be allowed pursuant to 310 CMR 1.01(6)(e), and this matter be dismissed pursuant to 310 CMR 1.01(5)(a)15.f.ii.

NOTICE

This decision is a recommended final decision of the Presiding Officer. It has been transmitted to the Commissioner for his final decision in this matter. This decision is therefore not a final decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's final decision is subject to the rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this recommended final decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in his sole discretion directs otherwise.

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Ann Lowery
Presiding Officer

Adopted by Commissioner Robert W. Golledge, Jr., May 25, 2006.

